IN THE HIGH COURT OF BOMBAY AT GOA.

CIVIL REVISION APPLICATION NO. 12/2002.

1. M/s. Esar Builders,
   a partnership firm duly
   constituted under the Indian
   Partnership Act, 1932,
   having its Office at
   Rani Pramila Arcade,
   Panaji, Goa.

2. Shri Sadiq Shaikh,
   son of Shaukat Ali Shaikh,
   married, of full age,
   Real Estate Developer and
   Partner of M/s. Esar Builders,
   residing at Miramar,
   Dona Paula Marine Highway,
   P.O. Caranzalem, Ilhas, Goa.

3. Shri Rajendra M. Narkar,
   of full age, Real Estate
   Developer and Partner of
   M/s. Esar Builders,
   residing at Altinho, Panaji, Goa. ... Petitioners.

VERSUS

1. Smt. Shantabai Balkrishna Porobo
   Colvalcar (since deceased),
   Through legal heirs:

   1(a) Smt. Vasanti B.P. Colvalkar.

   1(b) Smt. Gangabai alias Sunit B.P.
        Colvalkar.

   1(c) Smt. Priya Shrikant Pai Angle.

   1(d) Smt. Maink Raghuvir Talaulikar.

   1(e) Smt. Milan Balkrishna Prabhu
        Colvalkar, all residing at
        Panaji, Goa.

   1(f) Smt. Laxmibai Krishna
        Pai Budbude.

   1(g) Dr. Krishna Pai Budbude,
        both residing at
        Fatorda, Salcete, Goa.

   1(h) Shri Shrikant Pai Angle.

2. Smt. Savitribai Loximona
   Porobo Colvalcar, r/o
   Caranzalem, Ilhas, Goa.

3. Smt. Arundhati Vithoba Naik
   Panvelcar, r/o Altinho,
   Panaji, Goa.

4. Dr. Vithoba Vishnu Naik
   Panvelcar, r/o Altinho,
   Panaji, Goa.

5. Smt. Smita Vinayak Kamat
   Satoskar, r/o Marcela,
   Ponda, Goa.

6. Shri Vinayak Prabhakar Kamat,
   r/o Marcela, Ponda, Goa.

7. Shri Purushottam Mukund Porobo
   Colvalcar, r/o Miramar, Panaji,
   Goa.

8. Smt. Kranti Purushottam Porobo
   Colvalcar, r/o Miramar, Panaji,

9. Smt. Amita Viajaykumar Hede,
   r/o Caranzalem, Ilhas, Goa.

10. Shri Vijaykumar Hede,
    r/o Tonca, Caranzalem,
    Ilhas, Goa.

11. Shri Usno Mukund Porobo
    Colvalcar, r/o Panaji, Goa.

12. Smt. Kumudini Usno Porobo
    Colvalcar, of full age,
    residing at Panaji, Goa. ... Respondents.

Mr. S. Vahidulla, Advocate for the Petitioners.

Mr. V.K. Bodke, Advocate for the Respondents No.1(a) to 1(e), 1(f), 1(g), 3, 4, 5, 6, 7 and 8.

CORAM: V. C. DAGA, J.

DATE: 28TH JUNE, 2002.

ORAL ORDER:

This revision is directed against the Order of the Trial Court, refusing to grant adjournment or time to file written statement.

2. The present petitioners are the real estate developers and builders, doing business of real estate development in the State of Goa. The respondents are the joint owners of the property, who entered into an agreement with the petitioners to develop their property. It appears that there was some dispute between the parties which resulted in filing present Suit. The plaintiffs are alleging breach of contract by the present petitioners/real estate developers and builders/original defendant Nos. 1 to 3.

3. It is clear from the order sheet produced along with the revision petition that the Suit was filed in the year 1999 and more than required adjournments were granted by the Trial Court to enable the present petitioners to file their written statement. However, on one or the other pretext, they avoided filing of the written statement and, ultimately, met with an order, whereby the Trial Court refused to grant any more time to file their written statement.

4. Having heard the rival parties, I feel that, although the conduct of the petitioners has certainly been far from satisfactory and it is clear that they have tried their best to delay the trial of the Suit. However, considering the heavy stakes involved in the suit, which is obvious from the plaint itself. The total suit claim is in the region of about more than Rupees one crore. Considering the heavy stakes involved in the suit, I feel that the petitioners are entitled for one more opportunity. The same could be given to them on certain conditions.

5. In the event of the petitioners depositing in the Court sum of Rs.2,00,000/- within a period of eight weeks from today, the impugned order will be set aside and the petitioners will be permitted to file their written statement within one week thereafter. In the event of their not depositing the amount within such time, the revision shall stand automatically dismissed with costs without any further order.

6. In the event on deposit being made, the original plaintiffs shall be at liberty to withdraw the same, subject to furnishing security to the satisfaction of the Trial Court. The deposit will be made without prejudice to the rights of the petitioners.

7. In the event of deposit being made within the aforesaid time, this revision application shall stand disposed of as aforesaid with no order as to costs. In the event of deposit not being made within the aforesaid time, the revision application shall stand dismissed as observed hereinabove with costs quantified in the sum of Rs.5000/- payable to the plaintiffs within a period of four weeks after expiry of the period of eight weeks granted under this order to make deposit.

8. This revision application is disposed of in terms of the approach in such matters adopted by the Apex Court in various cases, one of such case at hand is **Ramesh Chand and another v. Punjab National Bank and others** reported in A.I.R. 1990 S.C., 1147.

9. The revision petition stands disposed of in terms of this Order.

(V. C. DAGA)
JUDGE.

sl.